

TITLE 3: HEALTH AND SANITATION AND ANIMAL REGULATIONS

DIVISION 3: ENVIRONMENTAL HEALTH

Chapter 1: Authority and Administration.

Sections:

- 33.0101 Intent and Enforcement Authority.
- 33.0102 Scope of Authority.
- 33.0103 Validity and Severability.
- 33.0104 Existing Law Continued.
- 33.0105 No Liability/No Warranty.
- 33.0106 Authority to Investigate, Detain and/or Issue Citation.
- 33.0107 Interference Unlawful/Criminal Penalties For.
- 33.0108 Freedom of Information.
- 33.0109 Administrative Due Process.
- 33.0110 Remedies for Public Nuisances.
- 33.0111 Civil Remedies for Fraud or Unfair Business Practices.
- 33.0112 Criminal Penalties.
- 33.0113 Injunction.
- 33.0114 Notice of Action
- 33.0115 Definitions Generally.

33.0101 Intent and Enforcement Authority.

Pursuant to the California Health and Safety Code Section 200 *et seq.*, Section 450 *et seq.*, Section 476 *et seq.*, Section 500 *et seq.*, Section 540 *et seq.*, Section 1155.5 *et seq.*, Public Resources Code Section 21050 *et seq.* (Environmental Quality Act of 1970), and other relevant state authority, this jurisdiction has found that the public's interest will be best served by all Environmental Health Services and related Consumer Protection Programs within the borders of San Bernardino County being enforced and administered through the Department of Environmental Health Services ("DEHS") of the County of San Bernardino. The Director and Enforcement Officers of DEHS are hereby authorized to enforce and administer all state law pertaining to environmental health and all provisions of this Environmental Health Code (E.H. Code) within this jurisdiction.

Adopted Ordinance #527 (1942); Amended Ordinance #810 (1956; Amended Ordinance #850 (1958); Restated and renumbered Ordinance #3105 (1986);

33.0102 Scope of Authority.

This authority is granted to the Director and Enforcement Officers of DEHS. Pursuant to California Health and Safety Code Section 1158, during declared states of emergency, the County Health Officer shall have supervision and control over all DEHS programs and personnel. DEHS shall enforce all California Health and Safety Code provisions pertaining to Environmental Health, other relevant state law, and the provisions of this E.H. Code, within available resources. DEHS may charge reasonable fees for their services, including fees as are prescribed by the San Bernardino County Code Schedule of Fees.

Adopted Ordinance #527 (1942); Amended Ordinance #810 (1956; Amended Ordinance #850 (1958); Restated and renumbered Ordinance #3105 (1986);

33.0103 Validity and Severability.

This E.H. Code shall not be in conflict with State or Federal law. If any provision of this E.H. Code or the application thereof is held invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions of this E.H. Code are severable.

Adopted Ordinance #527 (1942); Amended Ordinance #810 (1956; Amended Ordinance #850 (1958); Restated and renumbered Ordinance #3105 (1986);

33.0104 Existing Law Continued.

The provisions of this E.H. Code, insofar as they are substantially the same as provisions of existing laws and ordinances relating to the same subject matter, shall be construed as restatements, continuations, and amendments thereof, and not as new enactments.

Adopted Ordinance #527 (1942); Amended Ordinance #810 (1956; Amended Ordinance #850 (1958); Restated and renumbered Ordinance #3105 (1986);

33.0105 No Liability/No Warranty.

DEHS and its employees or agents shall not be held liable for any act or omission to act when in "good faith" reliance upon state law, or the ordinances and codes of this jurisdiction, of this E.H. Code, and upon current DEHS policies and procedures. DEHS and its employees or agents shall not be held liable for the negligence of, nor as the guarantor of proper performance, by any person or entity holding any license, permit, certificate, registration, privilege, or other entitlement from DEHS.

Adopted Ordinance #527 (1942); Amended Ordinance #810 (1956; Amended Ordinance #850 (1958); Restated and renumbered Ordinance #3105 (1986);

33.0106 Authority to Investigate, Detain and/or Issue Citation.

Subject to constitutional freedoms and laws respecting rights of privacy, the Director, and such DEHS enforcement officers the director designates, shall have authority to, at all reasonable times, enter any place, property, enclosure or structure to investigate for violations of this E.H. Code; to detail for purposes of investigation or to issue a citation in conformance with relevant state law and of this jurisdiction, to any person committing a misdemeanor or infraction offense in their presence, which is a violation of this E.H. Code.

Adopted Ordinance #527 (1942); Amended Ordinance #810 (1956; Amended Ordinance #850 (1958); Restated and renumbered Ordinance #3105 (1986);

33.0107 Interference Unlawful/Criminal Penalties For.

It shall be unlawful for any person or entity to deny access, interfere with, prevent, restrict, obstruct, or hinder DEHS employees or agents acting within the scope of their duty or agency. Offering physical resistance or bodily attack upon authorized representatives of DEHS acting within the scope of their duty or agency is a misdemeanor, punishable by imprisonment in the County jail for not less than ten (10) days, without the alternative of a fine.

Adopted Ordinance #527 (1942); Amended Ordinance #810 (1956; Amended Ordinance #850 (1958); Restated and renumbered Ordinance #3105 (1986);

33.0108 Freedom of Information.

In accordance with Government Code Section 6250 et seq., generally, all DEHS routine inspection activities and files shall be readily accessible to public inspection. DEHS may charge reasonable fees to cover the administrative costs of making such information available. In the absence of a specific court order, DEHS shall not disclose to the public any information concerning complainants, epidemiological studies, medical records, criminal investigations, private matters, trade secrets, or any information which would reveal the identity of any person who gave information to DEHS in confidence, or otherwise violate any person's right to privacy. Administrative procedures for information requests shall include in person identification of the requestor from suitable photo identification and completion of a request form, showing what information was requested and the requestor's name and address, a copy of which DEHS shall make available to the permit holder or other affected parties.

Adopted Ordinance #527 (1942); Amended Ordinance #810 (1956; Amended Ordinance #850 (1958); Restated and renumbered Ordinance #3105 (1986);

33.0109 Administrative Due Process.

Every DEHS Administrative Hearing and related activity shall properly consider all constitutional due process principles and generally proceed as provided in Chapter 2 and Chapter 3 of this E.H. Code.

Adopted Ordinance #527 (1942); Amended Ordinance #810 (1956; Amended Ordinance #850 (1958); Restated and renumbered Ordinance #3105 (1986);

33.0110 Remedies for Public Nuisances.

In addition to criminal prosecution, civil action, and every other remedy or penalty provided by law, public nuisance may be abated or enjoined in an action brought by DEHS, or under circumstances immediately dangerous to a public health or safety may be summarily abated by DEHS enforcement officers as provided herein or otherwise in the manner provided by law for the summary abatement of public nuisances.

Restated and renumbered Ordinance #3105 (1986);

33.0111 Civil Remedies for Fraud or Unfair Business Practices.

In addition to every other remedy or penalty provided by law, DEHS shall refer suspected fraudulent or unfair business practices as defined in the California and Professions Code to the appropriate prosecutorial authority for further investigation and civil remedies.

Restated and renumbered Ordinance #3105 (1986);

33.0112 Criminal Penalties.

(a) Unless otherwise provided, any person, firm, partnership, corporation or other entity violating any provision of this Division shall be guilty of an infraction or misdemeanor as hereinafter specified. Each day or portion thereof such violation is in existence shall be a new and separate offense.

(b) Any person so convicted shall be:

(1) Guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100) and not less than fifty dollars (\$50) for a first offense.

(2) Guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200) and not less than one hundred dollars (\$100) for a second offense.

(3) The third and any additional offenses shall constitute misdemeanors and shall be punishable by fines not exceeding one thousand dollars (\$1,000) and not less than five hundred dollars (\$500) or six (6) months in jail, or both.

(4) Notwithstanding the above, a first or second offense may be charged and prosecuted as a misdemeanor.

(c) Payment of any fine or service of a jail sentence herein provided shall not relieve a person, firm, partnership, corporation, or other entity from the responsibility of correcting the condition resulting from the violation.

(d) In addition to the above penalties, the Court may order that the guilty party reimburse the County for all of its costs of investigating, analyzing, inspecting, abating and prosecuting the enforcement action against the guilty party. The Court shall fix the amount of any such reimbursement upon submission of proof of such costs by the County.

(e) The owner, manager, and operator of every activity or facility subject to this Division of the San Bernardino County Code shall be responsible for any violation of this Division by an employee.

Restated and renumbered Ordinance #3105 (1986); Amended Ordinance #3585 (1994);

33.0113 Injunction.

Any violation of this Division is hereby declared to be unlawful and a public nuisance. Upon request of the Director of Environmental Health Services, an action for injunctive relief may be commenced for the abatement, removal and enjoinder thereof in the manner provided by law. Application shall be made to such court or courts which have jurisdiction to grant such relief to abate or remove such illegal activity and restrain any person from engaging in such illegal activity. This remedy shall be in addition to any other civil or criminal penalty provision.

Restated and renumbered Ordinance #3105 (1986); Amended Ordinance #3585 (1994);

33.0114 Notice of Action.

A notice of action affecting the title to a possession of real property may be filed in the County Recorder's office at the time of commencement of legal action or any time thereafter pursuant to Government Code section 27280 et seq., or other applicable statutes. The County Recorder shall record and index the notice in the name of each person and property specified in the action or proceeding. After all violations have been corrected, the County shall record in the Office of the County Recorder a document terminating the notice.

Restated and renumbered Ordinance #3105 (1986); Amended Ordinance #3585 (1994);

33.0115 Definitions Generally.

Definitions herein shall supplement all definitions throughout the California Health and Safety Code and elsewhere in state laws and regulations pertaining to environmental health and Division 3 of Title 3 of the San Bernardino Code.

(a) "County Fire Department" shall be the San Bernardino County Consolidated Fire District.

(b) DEHS shall be the Division of Environmental Health Services of the Public Health Department of the County of San Bernardino

(c) "Director" shall be the Chief of the Division of Environmental Health Services of the Public Health Department of the County of San Bernardino.

(d) "Enforcement Officer" shall be any employee or agent so designated by the Chief of the Division of Environmental Health Services.

(e) "Laws" shall include all statutes, regulations, rules, resolutions, ordinances, orders, judicial appellate opinions, and every other legal authority pertaining to the Environmental Health and Consumer Protection Programs of DEHS.

(f) "Operator" shall be any person or entity engaged in any pursuit pertaining to activities or facilities subject to DEHS jurisdiction.

(g) "Owner" shall be any person or entity having a financial interest in any activity or facility subject to DEHS jurisdiction.

(h) "Person" shall include individuals, general partnerships, joint ventures, corporations, state and local governmental entities, the U.S. Government and its agencies to the degree authorized by federal law, every other legal entity or any association having legal obligations subject to the provisions of Division 3 of Title 3 of the San Bernardino County Code.

(i) "Public Nuisance" shall be as defined in Chapter 3 of Division 3 of Title 3 of the San Bernardino County Code.

(j) "Temporary Special Event" shall be as defined at San Bernardino County Code Section 41.1510(f).

Restated and renumbered Ordinance #3105 (1986); Amended Ordinance #3611 (1995);